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PROCEEDINGS OF THE SIXTH ANNUAL MEETING OF THE
AMERICAN INSTITUTE OF CRIMINAL LAW
AND CRIMINOLOGY.

THE EDITORS.

The Sixth Annual Meeting of the American Institute of Criminal Law and Criminology was convened in the Cabinet Room of the New Willard Hotel, Washington, D. C., October 22, 1914, with President Quincy A. Myers, Justice of the Supreme Court of Indiana, in the chair.

President Myers read a letter from Judge De Courcey, expressing regret for his inability to be present, and proceeded to read his annual address, which is published elsewhere in this issue.

Mr. Nathan William MacChesney, of Chicago, Ill.: "Mr. President, I move you, sir, that the Institute by vote express its appreciation of the review made by the President in this field during the last year, and that the Executive Committee be instructed to prepare the same in the form of a bulletin after its publication in the Journal, in order that it may be available in connection with the work of the Institute."

The motion was seconded, and adopted.

A Nominating Committee of five members was ordered appointed by the Chair for the purpose of presenting in due time a list of officers for the ensuing year.

President Myers: "Now, what is your pleasure? Shall we take up any of the work at this time, or shall it be deferred until tomorrow morning according to the program?"

On motion by Mr. MacChesney it was ordered that we proceed at once to hear committee reports.

Professor E. R. Keedy, of Northwestern University, as Chairman, then reported for the Committee on Insanity and Criminal Responsibility. The report, together with the discussion upon it, appears elsewhere in this issue.

After the discussion of this report the report relating to the business management of the Journal, submitted by Mr. F. B. Crossley, of Northwestern University, was read by Mr. MacChesney of Chicago. On motion this report was referred to an auditing committee under the chairmanship of Prof. E. R. Keedy with instruction to report before the adjournment of the Institute. The reports of the treasurer and the secretary were then received.

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The Institute then adjourned and on the following morning took up the report of the Committee on Sterilization, Mr. Joel D. Hunter, Chief Juvenile Probation Officer of Chicago, Chairman. This report was published in the last issue of this Journal. The discussion upon it turned mainly upon the means for securing the funds recommended by the committee for carrying on the investigation. It was moved by Judge Robert Ralston of Philadelphia that it be the sense of the Institute that the expenditure of \$3,000.00 or more for the investigation proposed in the report is highly desirable, and that the Executive Council should be instructed to use its good offices to secure the funds. The motion was adopted.

In the course of the discussion of this report, Mr. Charles A. Boston, of the New York Bar, was called upon, and spoke as follows:

I do not know that I am fully equipped to speak upon this subject. I fear from the investigation that I have made into the legislation on this subject that there is danger that in this country we may be carried away with emotional excitement. I was glad to hear the recommendation of the committee for an appropriation to investigate the subject further. It seems to me from what I heard of the report that the committee passes without question the assumption that as a social remedy, and quite apart from its effect upon the individual, the facts point to the advisability of this remedy. The report only recommends, so far as I understood, the appropriation of a sum of money for the purpose of investigating one phase of the question, namely, the effect of the operation on the individual operated upon. There is grave danger that the most important phase of the subject is entirely overlooked, and that it is often assumed to be true without any investigation into the hereditary tendency in these various respects which have been specified. After a very extensive investigation into the subject I am inclined to believe that those facts are not established beyond peradventure, and that when the legislature of Indiana recited the laws of hereditary in its preamble to the act it passed it was carried far beyond any justifiable recital of the facts in any legislation. Legislation in the United States has improved in quality, and as it improved in quality it seems to me that it necessarily discourages these operations.

I chance to be quite familiar with some of the aspects of the office of Eugenic Records of the Carnegie Foundation. That office is engaged primarily in the collection of data from selected cases in an effort to deduce conclusions from those data. The Record office is at Cold Spring Harbor, New York, but it operates very closely in connection with a voluntary committee of very distinguished men

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appointed by the American Breeders' Association. I have had an opportunity to consider the literature of that committee, and it seems to me, layman as I am, to jump at conclusions and to assume deductions without a sufficient amount of fundamental data. I trust this Institute will move along conservative lines. I first approached the subject from the standpoint of the constitutional lawyer in a desire to consider whether these crude laws, for every one of them is extremely crude, yet were constitutional in their provisions for helpless members of society. I am inclined to the belief that the laws are all unconstitutional, and largely because of their uncertainty and lack of constitutional protection. I am inclined also to the belief that they approximate utter inability, because the more safeguards you throw around the operation the less effect you have upon the depletion of this undesirable element in the social body.

For your further information, so far as the individual men here are not informed, I would say that this voluntary committee of the American Breeders' Association appears to have approached the subject from the standpoint of breeding only. I venture the suggestion that the question of human heredity in mental characteristics cannot safely be approached from the same standpoint as the development of a particular quality in a particular strain of animal and that there is a long gap between the hereditary of mental characteristics and mental tendency. This is a question of reaction and the development of physical tendencies.

I say that this committee, whose literature I have read at some length, has a very ambitious program, and the character of that program it seems to me will come to those of you who are not already informed as a matter of surprise. It is cold blooded and it passes over as already established the proposition that mental characteristics if they can not be pre-determined certainly, it can be predicated that they are directly the result of heredity tendencies and that they operate in complete accord with the law as far as that law is understood. And the program advances the proposition that for the purpose of improving the breed of the human race it is desirable to install a plant whereby continuously the assumed lower tenth of the population shall be cut off regardless of whether it possesses those defects that have been specifically pointed out, but that it is well for the human race consciously and by law and by common consent to continue forever to cut off one-tenth of the population—that one-tenth to be selected by certain arbitrary rules that are advanced by this voluntary committee. As I have calculated, and as I think the committee admits, if this program should be put into effective operation in this country in the

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course of a hundred years, based upon the present population and assuming that the present population shall in no wise increase, there will be 15,000,000 people among the American population sterilized in the interests of this thesis which they advance as the best possible feature for the improvement of the human race.

Now my own idea, approaching it from the standpoint of constitutional law and from the standpoint of individual interest, is that 15,000,000 of the population of the United States can never be sterilized by any arbitrary company or by any common consent. So that to that extent it appears to me that this is a mere idle dream. But I arose in the first place to give you that little bit of information, and further to comment, from the standpoint of a conservative and an extreme conservatism on these points, upon the attitude of this committee which advises merely an appropriation for the purpose of investigation. If I had any criticism of the report and recommendation it would be that the scope of investigation is limited, but I appreciate that the amount of the appropriation asked for is also limited and would therefore not admit of such a wide investigation. But all the same conservative human beings have got to work to prevent the Carnegie Foundation and its affiliated bodies from regenerating the entire human race by these utterly arbitrary methods of cutting off reproduction.

Mr. MacChesney then reported on the organization of the American Society of Military Law, which is Section 1 of the Institute.

The society, said Mr. MacChesney, a former president of the Institute, was originally formed as Section A of the American Institute upon resolution introduced at the last meeting in Montreal. Pursuant to that resolution the President of the Institute appointed the officers and executive committee. I was appointed president, and Prof. Ballantine, secretary, of the new society. Following our appointment, general correspondence was had with the officers of the army and navy and others interested in the subject. A conference was called to meet in Washington last January, which was attended by representatives of the Army and Navy and of the Attorney General's department. Following that a plan of work was outlined and a constitution was formulated, providing a basis of membership in the section after a considerable amount of correspondence. The response to the invitation to membership was very favorable, and it now seems there will be a large number of men officially interested in this subject, who will desire to join the Institute, in order to become part of that section. The first meeting of that society was held last Monday afternoon, in which Prof. Ballantine read a splendid paper on "Military Orders

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as a Substitute for Laws, Courts and Constitutions," which resulted in a lively discussion. (See this paper elsewhere in this issue.) There were justices of five supreme courts present, and representatives of the Army and Navy and of the National Guard of the several states. A wide variation of view was developed and it showed that there was a great need of an organization such as this to take into consideration the various points of view and harmonize them in a way to bring about better results. After the adjournment of the convention meeting an informal smoker was called at the Army and Navy Club at which were present prominent officials. Among others who were present was General Davis, author of one of the leading works on Military Law. A general discussion was entered into, which lasted until nearly two o'clock in the morning, showing the great interest in the subject. I believe that the Section will prove very useful in the field it is intended to cover, and will prove one of the strong parts of the Institute in time. An election was held after the meeting, and General Carter of the United States Army was elected president, and Prof. Ballantine, secretary, and Lt. Col Copperfield, Judge Advocate of Illinois, was elected Chairman of the Executive Committee. I make this report in accordance with a section of the constitution, which requires an annual report of the work accomplished to be made to the Institute, and in the coming year I think great results will be presented for your consideration and action.

The Institute then heard a report on Indeterminate Sentence. Release on Parole and Pardon (Committee F). This report, together with the discussion it elicited, will be published in a later issue of this Journal.

The report on The Employment and Compensation of Prisoners was then offered by the Chairman, Mr. Edwin M. Abbott, of Philadelphia. This was followed by the report of Professor William E. Mikell, of the University of Pennsylvania, on a Proposed Draft of a Code of Criminal Procedure. The report is published elsewhere in this issue, together with the discussion.

The report of the Nominating Committee then followed, and the following officers were elected, after which the Institute adjourned:

OFFICERS OF THE INSTITUTE—1914-1915.

PRESIDENT.

ROBERT RALSTON, Judge of Court of Common Pleas No. 5, City Hall, Philadelphia, Pa.

PROCEEDINGS OF THE ANNUAL MEETING

VICE-PRESIDENTS.

CHARLES A. DECOURCY, Justice of the Supreme Judicial Court of Massachusetts, Boston, Mass.

WILLIAM E. MIKELL, Dean, Law School, University of Pennsylvania, Philadelphia, Pa.

EMORY S. BOGARDUS, Professor of Sociology, University of Southern California, Los Angeles, California.

WILLIAM A. WHITE, Superintendent Government Hospital for the Insane, Washington, D. C.

AMOS W. BUTLER, Secretary State Board of Charities, Indianapolis, Indiana.

TREASURER.

BRONSON WINTHROP, 32 Liberty St., New York City.

SECRETARY.

EDWIN M. ABBOTT, Chairman of State of Pennsylvania Commission on Revision of Penal Laws, 700-3 Land Title Building, Philadelphia, Pa.

EXECUTIVE BOARD.

For the term expiring 1915.

WALTON J. WOOD, Public Defender, Los Angeles, Cal.

WILLIAM N. GEMMILL, Judge of the Municipal Court, Chicago, Ill.

GEORGE W. KIRCHWEY, Professor of Law, Columbia University, New York City.

EDWARD J. McDERMOTT, of the Kentucky Bar, Lieutenant-Governor of Kentucky, Louisville, Ky.

For the term expiring 1916.

ARTHUR J. TODD, Assistant Professor in Sociology, University of Pittsburgh, Pittsburgh, Pa.

WILLIAM HEALY, Director of the Juvenile Psychopathic Institute, Winnetka, Ill.

EMMETT N. PARKER, Justice of the Supreme Court of Washington, Olympia, Washington.

EDWIN MULREADY, Commissioner of Probation, Court House, Boston, Mass.

For the term expiring 1917.

EDWIN R. KEEDY, Professor of Law, Northwestern University, Chicago, Ill.

EDWARD LINDSAY, Member American Anthropological Society and Pennsylvania Bar, Warren, Pa.

JOHN LISLE, Attorney, Land Title Building, Philadelphia, Pa.

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JOHN H. WIGMORE, Professor of Law in Northwestern University, 31 W. Lake St., Chicago, Ill.

NATHAN WILLIAM MACCHESNEY, of the Chicago Bar; Commissioner on Uniform State Laws, 30 N. LaSalle St., Chicago, Ill.

JOHN B. WINSLOW, Chief Justice of the Supreme Court of Wisconsin, Madison, Wis.

FREDERIC B. CROSSLEY, Managing Director of the Journal of the Institute, Librarian of the Elbert H. Gary Collection of Criminal Law and Criminology, Northwestern University, 31 W. Lake St., Chicago, Ill.

ROBERT H. GAULT, Managing Editor of the Journal of the Institute, Associate Professor of Psychology in Northwestern University, Evanston, Illinois.

ORRIN N. CARTER, Justice of the Supreme Court of Illinois, Chicago.

EUGENE A. GILMORE, Professor of Law, State University, Madison, Wis.

QUINCY A. MYERS, Justice of the Supreme Court of Indiana, State House, Indianapolis, Ind.